

REMARKS

Applicants submit this Reply in response to the non-final Office Action mailed February 4, 2009. Claims 46-90 are pending in this application, of which claims 46, 48, 50-59, and 88-90 are submitted for examination and claims 46, 88, and 89 are independent. By this Reply, Applicants have amended claims 46, 48, 50, 55, 88, and 89. No new matter has been added.

In the Office Action, the Examiner rejected claims 46, 47, and 49-56 under 35 U.S.C. § 102(b) as being anticipated by U.S. Pat. No. 3,638,892 ("Bove"); and rejected claims 48, 57-59, and 88-90 under 35 U.S.C. § 103(a) as being unpatentable over Bove in view of U.S. Pat. No. 5,113,717 ("Plamper").

In this Reply, Applicants have amended independent claim 46 to recite:

A method of installing electrical cabling . . . characterized in that the method further comprises the steps of:

associating the clip to a nail gun by attaching a first aperture possessed by the clip to a projection on the nail gun;

firing said nail into said structure by the nail gun through a second aperture in the clip; and

engaging said integral closure member to a first projection of the clip, said first projection defining said first aperture.

Independent claims 88 and 89 have been amended to recite similar features. Support for these amendments can be found in Applicants' specification at least at page 11, line 8-page 13, line 7, and Figures 1-7.

Applicants respectfully request reconsideration and withdrawal of all of the claim rejections for at least the reasons discussed below.

Rejection Under 35 U.S.C. § 102(b)

Applicants respectfully traverse the rejection of claims 46, 47, and 49-56 under 35 U.S.C. § 102(b) as being anticipated by Boye. In order to properly establish that Boye anticipates Applicants' claimed invention under 35 U.S.C. § 102, every element of the claims in issue must be found, either expressly or described under principles of inherency, in that single reference. M.P.E.P. § 2131. Furthermore, "[t]he identical invention must be shown in as complete detail as is contained in the... claim." See *id.* (quoting *Richardson v. Suzuki Motor Co.*, 868 F.2d 1126, 1236, 9 U.S.P.Q.2d 1913, 1920 (Fed. Cir. 1989)).

Boye does not disclose every element recited in amended independent claim 46. Amended independent claim 46 recites, in part, "A method of installing electrical cabling . . . characterized in that the method further comprises the steps of: associating the clip to a nail gun by attaching a first aperture possessed by the clip to a projection on the nail gun; firing said nail into said structure by the nail gun through a second aperture in the clip; and engaging said integral closure member to a first projection of the clip, said first projection defining said first aperture." First, Boye does not disclose "associating the clip to a nail gun by attaching a first aperture possessed by the clip to a projection on the nail gun." Rather, Boye teaches positioning a cable clip within the nozzle of a nail gun using a pair of protrusions, 10 and 10'. Second, Boye does not disclose "firing said nail into said structure by the nail gun through a second aperture in the clip." Thus, even if the Examiner were to incorrectly assert that the central aperture disclosed in Boye is equivalent to Applicants' first aperture, that reference nowhere discloses a

"second aperture" through which a nail can be fired. And, lastly, Boye does not disclose "engaging said integral closure member to a first projection of the clip."

For at least these reasons, Applicants respectfully request that the Examiner reconsider and withdraw the rejection of independent claim 46 under 35 U.S.C. 102(b) based on Boye. Further, claims 50-56 depend from claim 46, and thus, those dependent claims are patentably distinguishable from Boye at least due to their corresponding dependence from independent claim 46.

Rejection Under 35 U.S.C. § 103(a)

Applicants respectfully traverse the rejection of claims 48, 57-59, and 88-90 under 35 U.S.C. § 103(a) as being unpatentable based on Boye in view of Plamper. To establish a *prima facie* case of obviousness, the prior art reference must teach or suggest all the claim limitations. M.P.E.P. § 2142. Moreover, "in formulating a rejection under 35 U.S.C. § 103(a) based upon a combination of prior art elements, it remains necessary to identify the reason why a person of ordinary skill in the art would have combined the prior art elements in the manner claimed." USPTO Memorandum from Margaret A. Focarino, Deputy Commissioner for Patent Operations, May 3, 2007, page 2.

Applicants respectfully submit that the Office Action fails to establish a *prima facie* case of obviousness because, among other things, neither Boye nor Plamper teaches nor suggests every feature of Applicants' claims. Applicants have already established in the previous section that Boye fails to teach at least "A method of installing electrical cabling . . . characterized in that the method further comprises the steps of: associating the clip to a nail gun by attaching a first aperture possessed by the

clip to a projection on the nail gun; firing said nail into said structure by the nail gun through a second aperture in the clip; and engaging said integral closure member to a first projection of the clip, said first projection defining said first aperture.," as recited in amended independent claim 46. Similar features are recited in amended independent claims 88 and 89. Further, the Examiner's citation of Plamper fails to cure this deficiency. That reference teaches a cable clip with an integrated fixing element, but nowhere appears to teach or suggest the features recited in Applicants' claims.

Accordingly, Applicants respectfully request the Examiner reconsider and withdraw the rejections of amended independent claims 88 and 89 based on Bove and Plamper under § 103. Moreover, claims 48, 57-59, and 90 depend from independent claims 46 and 89, respectively, and, thus, contain all the elements and limitations thereof. As a result, dependent claims 48, 57-59, and 90 are allowable at least due to their corresponding dependence from independent claims 46 and 89.

Claim Scope

It is to be understood that Applicants are in no way intending to limit the scope of the claims to any exemplary embodiments described in the specification or abstract and or shown in the drawings. Rather, Applicants believe that they are entitled to have the claims interpreted broadly, to the maximum extent permitted by statute, regulation, and applicable case law.

CONCLUSION

In view of the foregoing remarks, Applicants respectfully submit that claims 46, 48, 50-59 and 88-90 are neither anticipated nor rendered obvious in view of the prior art reference cited against this application. Applicants therefore request entry of this Amendment, reexamination of the application, reconsideration and withdrawal of the claim rejections, and timely allowance of all of pending claims 46-59 and 88-90.

If the Examiner believes that a telephone conversation might advance prosecution of this application, the Examiner is cordially invited to call Applicants' undersigned attorney at (404) 653-6435.

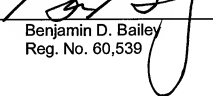
Applicants respectfully submit that the final Office Action contains a number of assertions concerning the related art and the claims. Regardless of whether those assertions are addressed specifically herein, Applicants respectfully decline to automatically subscribe to them.

Please grant any extensions of time required to enter this response and charge any additional required fees to our Deposit Account 06-0916.

Respectfully submitted,

FINNEGAN, HENDERSON, FARABOW,
GARRETT & DUNNER, L.L.P.

Dated: June 4, 2009

By: 
Benjamin D. Bailey
Reg. No. 60,539